



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor  
Bob Wieckowski, Vice Mayor  
Anu Natarajan  
Bill Harrison  
Suzanne Lee Chan

### City Staff

Fred Diaz, City Manager  
Harvey E. Levine, City Attorney  
Annabell Holland, Interim Assistant City  
Manager/Parks & Recreation Director  
  
Dawn G. Abrahamson, City Clerk  
Harriet Commons, Finance Director  
Marilyn Crane, Information Technology Svcs. Dir.  
Mary Kaye Fisher, Interim Human Resources Dir.  
Norm Hughes, City Engineer  
Jill Keimach, Community Dev. Director  
Bruce Martin, Fire Chief  
Jim Pierson, Transportation & Ops Director  
Jeff Schwob, Planning Director  
Suzanne Shenfil, Human Services Director  
Craig Steckler, Chief of Police  
Lori Taylor, Economic Development Director  
Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

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## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## **Availability of Public Records**

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**OCTOBER 5, 2010**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances  
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Special and Regular/Work Session Meetings of  
September 21, 2010*
- 2.3 *APPROVAL OF STREET IMPROVEMENT AGREEMENT FOR PARCEL MAP 9835,  
PERALTA SENIORS, L.P.  
Approval of a Street Improvement Agreement for Construction of Public Street  
Improvements for Peralta Boulevard*

*Contact Person:*

<i>Name:</i>	<i>Andrew Russell</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Senior Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4534</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>arussell@fremont.gov</i>	<i>nhughes@fremont.gov</i>

*RECOMMENDATION: Approve the Agreement for Public Street Improvements  
entitled "Improvement Agreement Parcel Map 9835", with the developer, Peralta*

*Seniors, L.P., and authorize the City Manager, or his designee, to execute the agreement on behalf of the City.*

**2.4 AUTHORIZATION TO SUBMIT AN APPLICATION TO CALIFORNIA PUBLIC UTILITIES COMMISSION FOR A PEDESTRIAN RAILROAD CROSSING AT CENTRAL PARK/GOMES PARK**

*Authorization for the City Manager to Submit an Application to the California Public Utilities Commission to Construct an at-grade Pedestrian/Bicycle and Service Vehicle Railroad Crossing at the UPRR/Mission Creek Junction in the Vicinity of Central Park and Gomes Park and Adopt a Mitigated Negative Declaration for the Project*

**Contact Person:**

<i>Name:</i>	<i>Rene Dalton</i>	<i>Kunle Odumade</i>
<i>Title:</i>	<i>Associate Transportation Engineer</i>	<i>Transportation Engineer</i>
<i>Dept.:</i>	<i>Transportation &amp; Operations</i>	<i>Transportation &amp; Operations</i>
<i>Phone:</i>	<i>510-494-4535</i>	<i>510-494-4746</i>
<i>E-Mail:</i>	<i>rdalton@fremont.gov</i>	<i>kodumade@fremont.gov</i>

**RECOMMENDATION:**

- 1. With respect to the mitigated negative declaration:*
  - a. Find that:*
    - i. There is no substantial evidence on the basis of the whole record before it that the project as described in the mitigated negative declaration will have a significant impact on the environment.*
    - ii. The mitigated negative declaration reflects the independent judgment and analysis of the City of Fremont.*
    - iii. The documents constituting the record of proceedings in this matter are in files in the custody of the City Clerk and the Transportation and Operations Department.*
  - b. Approve and adopt the mitigated negative declaration.*
- 2. Authorize the City Manager or designee to submit an application to the California Public Utilities Commission for authorization to construct an at-grade pedestrian/bicycle and service vehicle railroad crossing at the UPRR/Mission Creek junction in the vicinity of Central Park and Gomes Park.*

**2.5 TIBURON SOFTWARE CONTRACT APPROVAL**

*Authorize the City Manager, or Designee, to Issue a Purchase Order and Execute Implementing Documents with Tiburon, Inc., for Software Maintenance of Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property System Applications*

**Contact Person:**

<i>Name:</i>	<i>Pam Lutzinger</i>	<i>Marilyn Crane</i>
<i>Title:</i>	<i>Public Safety IT Manager</i>	<i>Director</i>
<i>Dept.:</i>	<i>Police</i>	<i>Information Technology Services</i>
<i>Phone:</i>	<i>510-790-6734</i>	<i>510-494-4802</i>
<i>E-Mail:</i>	<i>plutzinger@fremont.gov</i>	<i>mcrane@fremont.gov</i>

*RECOMMENDATION: Authorize the City Manager, or designee, to issue a purchase order to Tiburon, Inc., and to execute implementing documents for the software support of the Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property System applications in the amount of \$135,220, including sales tax.*

## **2.6 CENTERVILLE FRAMEWORK PLAN**

*City Council and Agency Board Consideration of Key Components of the Framework Plan: Proposed Concept for Improvements to Fremont Boulevard, Urban Design Guidelines and an Approach to Public Parking Policy*

*Contact Person:*

<i>Name:</i>	<i>Josh Huber</i>	<i>Elisa Tierney</i>
<i>Title:</i>	<i>Redevelopment Project Manager</i>	<i>Redevelopment Agency Director</i>
<i>Dept.:</i>	<i>Office of Housing &amp; Redevelopment</i>	<i>Office of Housing &amp; Redevelopment</i>
<i>Phone:</i>	<i>510-494-4513</i>	<i>510-494-4501</i>
<i>E-Mail:</i>	<i>jhuber@fremont.gov</i>	<i>etierney@fremont.gov</i>

*RECOMMENDATION: Staff recommends that:*

- 1. City Council provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and to begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and*
- 2. City Council grant conceptual approval of proposed urban design guidelines.*

*Staff also recommends:*

- 1. Agency Board provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and the begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and*
- 2. Agency Board grant conceptual approval of proposed Fremont Boulevard improvements.*

## **3. CEREMONIAL ITEMS – None.**

## **4. PUBLIC COMMUNICATIONS**

### **4.1 Oral and Written Communications**

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. [See separate agenda](#) (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

## 5. SCHEDULED ITEMS

### 5.1 HALIMI RESIDENCE DEMOLITION PERMIT REQUEST – 43569 ELLSWORTH STREET

Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Historical Architectural Review Board (HARB) Determination that an Existing Single-Family Dwelling Located in the Mission San Jose Conservation District is a Potential Register Resource, and of the Accompanying HARB Denial of a Request for Permission to Demolish the Subject Structure (PLN2010-00249) (Continued from September 14, 2010)

#### Contact Person:

Name:	Stephen Kowalski	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4532	510-494-4527
E-Mail:	skowalski@fremont.gov	jschwob@fremont.gov

#### RECOMMENDATION:

Either

##### (A) Staff Recommendation:

1. Hold public hearing;
2. Find that the request for consideration as to the historic status of the property is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not considered a project as defined by Guideline 15378; and
3. Uphold the HARB determination that the subject house is a Potential Register Resource based on the evidence of the historical assessment and deny the appeal, and direct staff to prepare an Environmental Impact Report in accordance with the requirements of CEQA if the applicant chooses to proceed with the request for a demolition permit.

Or:

(B) Alternative Recommendation:

1. Hold public hearing;
2. Find that the request for approval of the demolition permit is exempt per Guideline 15301, Demolition of Existing Small Structures; and
3. Grant the appeal by determining that the subject house is not a historic resource based on the evidence of the historical assessment and the finding that the property does not possess historical integrity, and approve the request for a demolition permit based on the findings contained in Exhibit "A".

**6. REPORT FROM CITY ATTORNEY**

6.1 Report Out from Closed Session of Any Final Action

**7. OTHER BUSINESS – None.**

**8. COUNCIL COMMUNICATIONS**

8.1 Council Referrals

8.1.1 VICE MAYOR WIECKOWSKI REFERRAL: Request that City Council Direct Staff to Analyze Feasibility of Regulating Single Use Bags

8.2 Oral Reports on Meetings and Events

**9. ADJOURNMENT**







REPORT SECTION  
FREMONT CITY COUNCIL  
REGULAR MEETING

OCTOBER 5, 2010



**\*2.3 APPROVAL OF STREET IMPROVEMENT AGREEMENT FOR PARCEL MAP 9835, PERALTA SENIORS, L.P.**

**Approval of a Street Improvement Agreement for Construction of Public Street Improvements for Peralta Boulevard**

**Contact Person:**

Name:	Andrew Russell	Norm Hughes
Title:	Senior Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4534	510-494-4748
E-Mail:	arussell@fremont.gov	nhughes@fremont.gov

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**Executive Summary:** The purpose of this report is to recommend that City Council approve an improvement agreement for public street improvements to Peralta Boulevard and authorize the City Manager to execute the agreement.

**BACKGROUND:** Parcel Map 9835 is a subdivision of an existing 2.98 acre site located at 3701 Peralta Boulevard in the Central Planning District. The project includes 2 condominiums consisting of a 98-unit senior housing apartment building with an attached commercial unit for a senior service provider. Approval of the vesting tentative Parcel Map 9835 (PLN2009-00015) and rezoning of the site, was approved by City Council on December 2, 2008.

The Developer, Eden Development Inc., a California Nonprofit Public Benefit Corporation as the managing partner for Peralta Seniors, L.P., has signed an agreement and pursuant to Government Code Section 66499.3 (c), their Contractor has posted bonds to guarantee construction of Peralta Boulevard. Public improvements include new pavement, curb and gutter, sidewalk, driveways, street trees and other miscellaneous items of work. Bonds in the amount of \$ 499,920.00 for faithful performance of the agreement and \$ 499,920.00 for the payment of labor and materials have been provided by the Developer's contractor based on the contractor's bid for the actual construction cost. The improvement plans have been reviewed and have been approved by the Engineering Division.

**DISCUSSION/ANALYSIS:** None

**FISCAL IMPACT:** None

**ENVIRONMENTAL REVIEW:** This project was found to be exempt from CEQA review as an affordable housing in-fill project pursuant to Public Resource Code Section 21159.23.

**ENCLOSURE:** [Site Plan](#)

**RECOMMENDATION:** Approve the Agreement for Public Street Improvements entitled "Improvement Agreement Parcel Map 9835", with the developer, Peralta Seniors, L.P., and authorize the City Manager, or his designee, to execute the agreement on behalf of the City.

**\*2.4 AUTHORIZATION TO SUBMIT AN APPLICATION TO CALIFORNIA PUBLIC UTILITIES COMMISSION FOR A PEDESTRIAN RAILROAD CROSSING AT CENTRAL PARK/GOMES PARK**

**Authorization for the City Manager to Submit an Application to the California Public Utilities Commission to Construct an at-grade Pedestrian/Bicycle and Service Vehicle Railroad Crossing at the UPRR/Mission Creek Junction in the Vicinity of Central Park and Gomes Park and Adopt a Mitigated Negative Declaration for the Project**

**Contact Person:**

Name:	Rene Dalton	Kunle Odumade
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Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4535	510-494-4746
E-Mail:	rdalton@fremont.gov	kodumade@fremont.gov

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**Executive Summary:** The City of Fremont is currently working with the California Public Utilities Commission, Union Pacific Railroad (UPRR) and the Alameda County Flood Control District (ACFCD) to develop a project to construct a public at-grade pedestrian/bicycle and service vehicle crossing of the Union Pacific Railroad tracks at the Mission Creek junction in the vicinity of Central Park and Gomes Park. The proposed path and crossing will provide the required improvements for pedestrians and bicyclists to safely travel between Gomes Park (Mission Valley Neighborhood) and Central Park. In order for the City to implement this project the Public Utilities Code requires that an order be issued by the California Public Utilities Commission (CPUC) authorizing the construction of the proposed public at-grade crossing. The order will authorize the construction of the crossing subject to a Construction and Maintenance Agreement between UPRR, ACFCD and the City. Each of the three agencies has been cooperating with the City's efforts to implement the necessary steps towards the construction of the proposed crossing.

To continue to move the project forward, staff recommends that the Council authorize the City Manager or his designee to file an application with the CPUC pursuant to sections 1201-1205 of the Public Utilities Code, requesting authority to construct an at-grade pedestrian/bicycle and service vehicle at-grade crossing across the Union Pacific Railroad line at the Mission Creek junction. In addition, to complete the City's application, staff recommends the Council adopt the Mitigated Negative Declaration for this project.

**BACKGROUND:** In 2007, the City, Alameda County Flood Control District (ACFCD), Union Pacific Railroad (UPRR) and California Public Utilities Commission (CPUC) discussed establishing a pedestrian at-grade crossing. The meeting was initiated by CPUC and UPRR regarding their concerns of pedestrians trespassing onto UPRR right-of-way at the railroad junction at Mission Creek. Pedestrians and bicyclists travelling between Gomes Park and Central Park (identified on Exhibit "A", "Vicinity Map") currently use an existing informal and historical path between the two parks which runs along the south side of Mission Creek. The public cross the railroad tracks at the Mission Creek maintenance access, making use of the westerly railroad trestle over the channel as part of the informal access route. There is strong community support to establish a public crossing across the UPRR line along this

pathway. A field meeting among CPUC, UPRR, ACFCD and the City of Fremont was held on July 31, 2007, at the location of the informal crossing at the request of the CPUC and UPRR.

Although there was initial resistance from UPRR for a new at-grade crossing, they changed their position once it was pointed out that ACFCD has an approved at-grade maintenance crossing on the south side of Mission Creek. At a subsequent meeting, ACFCD agreed to relocate their maintenance crossing to the north side of the Creek and allow the City to make the necessary improvements to the crossing to allow pedestrians and bicycles to use it. With this new approach, all parties agreed to pursue the construction of a new at-grade pedestrian/bicycle and service vehicle at-grade crossing on the north side of the Mission Creek Levee & UPRR crossing junction. ACFCD's existing at-grade railroad crossing (DOT750055G/CPUC001DA-31.30-X) located on the south side of the Mission Creek Levee will be closed following the opening of the north side crossing.

Following agreement by all parties on the approach, the following steps have been completed:

- UPRR, CPUC and ACFCD have completed three cycles of plan reviews of the proposed crossing design prepared by the City and the City is working with all parties to finalize the plans.
- UPRR has provided the City an estimate to design and construct the new proposed crossing.
- UPRR has submitted a draft Construction and Maintenance Agreement for the City's review and comments.

**Discussion/Analysis:** The proposed project consists of the construction of a new public at-grade pedestrian/bicycle and service vehicle crossing across the Union Pacific Railroad line. The work includes grading and construction of new asphalt, aggregate and concrete surfaces at the crossing area, and installation of a new railroad crossing signal, gates and fencing. Traffic counts indicate a high pedestrian demand at the proposed crossing location. For a three-day period between June 17 and June 19, 2007 (Friday, Saturday, Sunday, day time only), 1,268 pedestrian trips were observed crossing the track. For the three-day period, there was an average of 28 pedestrian trips per hour, with a peak hour of 57 trips on a Sunday between 7:00 AM and 8:00 AM. Because of its high use, there is strong community support for this project. The project conforms to the City's Bicycle Master Plan and the City's Pedestrian Master Plan. The proposed crossing will provide safe and convenient public access between Gomes Park, in the Mission Valley Neighborhood, and Central Park.

In order for the City to construct a pedestrian/bicycle and service vehicle at-grade crossing of the UPRR line, the California Public Utilities Code (Section 1201-1205) requires a CPUC order authorizing the construction of the proposed public at-grade crossing.. The order will authorize the construction of the crossing subject to a Construction and Maintenance Agreement between UPRR, ACFCD and the City.

To move the project to the next step in its implementation, staff recommends that the Council authorize the City Manager or his designee to file an application with the CPUC pursuant to sections 1201-1205 of the Public Utilities Code, requesting authority to construct an at-grade pedestrian/bicycle and service vehicle at-grade crossing across the Union Pacific Railroad line at the Mission Creek junction. In order to complete the application, staff also recommends the Council adopt the Mitigated Negative Declaration for this project.

Staff is currently working with Union Pacific Railroad on the development of a construction and maintenance agreement and finalizing the construction plans. Following the completion of the plans and the construction and maintenance agreement, staff will return to Council to request approval to execute the construction and maintenance agreement, approve project plans and specifications, appropriate funds and award the construction contract to the lowest responsive and responsible bidder.

**Fiscal Impact:** There is no direct cost for filing a CPUC application. The costs associated with the submittal of this CPUC application are staff charges incurred in its preparation, such as preparation of plans, environmental impact assessment study, staff report preparation, and coordination with outside agencies. The preliminary construction cost estimate for the project, including permit fees and City construction management costs, is between \$450,000 and \$500,000. Approximately \$350,000 of this estimate is for work that must be performed by UPRR on their tracks and signal system. A more refined project cost will be determined once the plans are finalized and a construction and maintenance agreement between UPRR, ACFC and the City is executed. The Central Park/Gomes Park Railroad Crossing Project, PWC8381, has been established through the CIP process and there is currently a balance of \$500,000 in the project budget. Should additional funding be necessary, staff will return to Council to request appropriation of available Measure B bicycle and pedestrian funds.

**Environmental Impact:** An Initial Study and Draft Mitigated Negative Declaration (Exhibit B) have been prepared for this project. The environmental analysis identified concerns regarding potentially significant impacts to Biological Resources and Hydrology/Water Quality. Biological impacts include the removal of existing protected plant species, congdon's tarplant, and potential disruption of burrowing owls. Although no burrowing owls were found in the project area, the area is moderately suitable for owl habitat. The project area abuts Mission Creek and has the potential to degrade water quality during construction. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. Mitigation Measures include reseeding of the congdon tarplant, burrowing owl surveys and avoidance measures, and construction fencing and barriers to limit construction impacts.

#### **ENCLOSURES:**

- [Exhibit "A" Vicinity Map](#)
- [Exhibit "B" Mitigated Negative Declaration and Mitigation Monitoring Plan](#)
- [Informational 1: Initial Study](#)

#### **RECOMMENDATION:**

1. With respect to the mitigated negative declaration:
  - a. Find that:
    - i. There is no substantial evidence on the basis of the whole record before it that the project as described in the mitigated negative declaration will have a significant impact on the environment.
    - ii. The mitigated negative declaration reflects the independent judgment and analysis of the City of Fremont.
    - iii. The documents constituting the record of proceedings in this matter are in files in the custody of the City Clerk and the Transportation and Operations Department.
  - b. Approve and adopt the mitigated negative declaration.

2. Authorize the City Manager or designee to submit an application to the California Public Utilities Commission for authorization to construct an at-grade pedestrian/bicycle and service vehicle railroad crossing at the UPRR/Mission Creek junction in the vicinity of Central Park and Gomes Park.

## **\*2.5 TIBURON SOFTWARE CONTRACT APPROVAL**

**Authorize the City Manager, or Designee, to Issue a Purchase Order and Execute Implementing Documents with Tiburon, Inc., for Software Maintenance of Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property System Applications**

### **Contact Person:**

Name:	Pam Lutzinger	Marilyn Crane
Title:	Public Safety IT Manager	Director
Dept.:	Police	Information Technology Services
Phone:	510-790-6734	510-494-4802
E-Mail:	plutzinger@fremont.gov	mcrane@fremont.gov

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**Executive Summary:** The City has an existing Master Support Agreement with Tiburon, Inc., to maintain Police Department Computer-Aided Dispatch (CAD), Automated Report Writing, Records Management, Jail Management, and Property System applications. The annual support costs for the period October 1, 2010 through September 30, 2011 are \$135,220 (including applicable sales tax). This amount exceeds \$100,000 and requires City Council approval.

**BACKGROUND:** On December 17, 2003, the City entered into a Master Support Agreement with Tiburon to implement the Police Department's major technology applications. The Master Support Agreement includes Exhibit 2, which is a list of applications that Tiburon supports on an on-going basis after the implementation and includes: Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property System. Exhibit 2 also includes the annual support fees, and there is no new agreement for support of the applications each year. However, Exhibit 2 is updated each year with the new annual fees.

**DISCUSSION/ANALYSIS:** It is important to have support agreements provided by the vendor in order to ensure that major applications in the City are updated as needed. Software support agreements are also necessary for ongoing maintenance in the event of system malfunction. The Tiburon Master Support Agreement includes technical assistance for the CAD application on a twenty-four hours a day, seven days a week basis. Technical assistance for the other Tiburon applications is available during the regular business day, 8:00 a.m. to 5:30 p.m. PST, excluding weekends and holidays. The Master Support Agreement also includes updates for critical interfaces to external systems such as the National Crime Information Center and California Law Enforcement Telecommunications System.

**FISCAL IMPACT:** Funds are appropriated for the Tiburon annual support costs in the Information Technology Services Department's FY 2010/11 budget. No additional appropriation is needed.

**ENVIRONMENTAL REVIEW:** Not applicable.

**ENCLOSURE:** None

**RECOMMENDATION:** Authorize the City Manager, or designee, to issue a purchase order to Tiburon, Inc., and to execute implementing documents for the software support of the Computer-Aided



Dispatch, Automated Report Writing, Records Management, Jail Management, and Property System applications in the amount of \$135,220, including sales tax.

## **\*2.6 CENTERVILLE FRAMEWORK PLAN**

### **City Council and Agency Board Consideration of Key Components of the Framework Plan: Proposed Concept for Improvements to Fremont Boulevard, Urban Design Guidelines and an Approach to Public Parking Policy**

#### **Contact Person:**

Name:	Josh Huber	Elisa Tierney
Title:	Redevelopment Project Manager	Redevelopment Agency Director
Dept.:	Office of Housing & Redevelopment	Office of Housing & Redevelopment
Phone:	510-494-4513	510-494-4501
E-Mail:	jhuber@fremont.gov	etierney@fremont.gov

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**Executive Summary:** This item appears on both the City Council and Agency Board agendas with identical staff reports. At the July 27, 2010 City Council and Agency Board meetings, staff presented the draft final plan and sought direction on a number of important land use issues. However, after much discussion, the lateness of the hour prevented the formal approvals necessary for staff to begin implementation of items under discussion that evening. The City Council/Agency Board directed staff to return as soon as possible so that action could be taken on three key components: 1) an approach to public parking policy in the Centerville district; 2) proposed improvements to Fremont Boulevard; and 3) urban design guidelines.

As a result, staff is now recommending the following:

1. City Council provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and to begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and
2. City Council grant conceptual approval of proposed urban design guidelines.

Staff also recommends:

1. Agency Board provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and the begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and
2. Agency Board grant conceptual approval of proposed Fremont Boulevard improvements.

**BACKGROUND:** In the summer of 2009, as the Council was actively considering redevelopment efforts on the Centerville Unified site and Center Theater, questions arose regarding the interrelationship of projects in Centerville and their compatibility with each other and the overall vision for the rejuvenation of the Centerville District. Council at that time directed staff to undertake a plan to clearly analyze the overall redevelopment program for the area. Staff commissioned the consulting firm of Field Paoli to study the impact of existing conditions along Fremont Boulevard on proposals for future development and the effects of new development on traffic, urban design, and public parking. The Centerville Framework Plan is the result of that analysis. Two City Council and Agency Board work sessions were held (November 17, 2009 and May 18, 2010), culminating in the meeting of July 27, in

which direction was requested by staff. Due to the lateness of the hour, despite much discussion, the Agency Board and the City Council did not have an opportunity to take action to formally direct staff to proceed on three items (outlined above), and instead directed staff to return in September for Agency and Council consideration of these outstanding actions needed to finish the process.

## **DISCUSSION/ANALYSIS:**

### *Parking Policy Approach*

Staff recognizes that the availability of public parking will become more of an issue as the commercial core of Centerville is rejuvenated and becomes an active, attractive, and sought-after shopping district. Since the demand for parking will increase over time as the area is redeveloped, resolution of the future parking demand will be a longer term solution and require a phased approach. Initially, the approach might include providing additional parking along Fremont Boulevard and meeting with property owners to determine the viability of a short-term sharing mechanism. The establishment of a formalized parking district might be a key component to a successful parking strategy. Eventually, it is anticipated that a centrally located parking structure might be necessary if demand continues to grow. Given its central location, staff has identified the block of Fremont Boulevard between Peralta Boulevard and Parish Avenue as the preferred location for shared public parking.

At this point, staff is requesting that Council: 1) provide direction to staff regarding the location of future shared parking, specifically on the block between Fremont Boulevard and Maple Street, bordered by Peralta Boulevard to the north and culminating in or around the end of Church Avenue to the south ; 2) once a preferred location has been identified, direct staff to begin discussions with existing private property owners on these blocks about parking options; and 3) as part of the City's CIP process commencing this year, identify costs, timing and funding sources – including the feasibility and mechanics of creating a parking district – and return to the Council and Agency Board at a later date with a detailed plan of action for district-wide parking.

It should be understood that any City/Agency involvement in the supply of long-term public parking will likely require a significant additional investment of Agency resources. As an incentive for property owners to reach an interim agreement, the Agency would commit to striping on-street parking in the area which could count towards the supply available for use by the public. On a longer term basis, the Agency could agree to invest in parking facilities such as structure parking in return for property owners' participation in the formation of a parking district.

### *Fremont Boulevard Improvements*

Improvements to Fremont Boulevard are the most direct way to make a substantial positive impact on the Centerville commercial corridor in the short term. Public investment in streetscape improvements and lane reconfigurations to make the street more pedestrian- and bicycle-friendly has the potential to significantly transform the character of the street and thus the future of the district. While such improvements require no private investment (since they can be funded with existing City and Agency resources), they often facilitate private development. The stretch of Fremont Boulevard between Thornton Avenue and Central Avenue is a critical component of Centerville. After initial discussions with Council, staff identified a preferred lane reconfiguration design and associated streetscape improvements for Fremont Boulevard which was presented to Council on July 27, 2010.

As discussed by the City Council and Agency Board at the July 27 meeting, the changes to Fremont Boulevard that staff recommends for short term implementation include the following:

- Adding bicycle lanes in both directions;
- Enhancing pedestrian amenities with sidewalk widening (as part of future development), and the addition of mid-block crosswalks and bulb-outs to provide safer connections across Fremont Boulevard;
- Maintaining two lanes of travel in each direction;
- Providing accommodations for future Bus Rapid Transit (BRT) in the outer travel lanes;
- Providing on-street parallel parking on at least one side of the street;
- Preserving existing street trees where feasible; and
- Including a median that can be enhanced with landscape and hardscape treatments or public art.

#### *Urban Design*

At the request of the Council, staff has compiled existing urban design guidelines from various City documents into a single document. These urban design guidelines draw from the draft General Plan Community Character element, Centerville Specific Plan, Envision Fremont Boulevard Report, and the Centerville Framework Plan. The four documents inform and shape future development on a range of topics. The proposed urban design guidelines document pulls this information together into a comprehensive package that will guide potential developers as they plan enhancements or new development on their properties and communicates, in as direct a form as possible, the City's goals and vision for future development. Staff proposes to hire a consultant to perform urban design review of new developments in the study area, using the urban design guidelines as a tool to achieve desirable outcomes. Staff requests that the City Council and Agency Board conceptually approve the proposed urban design guidelines.

**FISCAL IMPACT:** There is no fiscal impact to any action authorized by this item. The fiscal impacts of individual projects will be assessed and authorized through future City Council and/ or Agency Board actions.

**ENVIRONMENTAL REVIEW:** The current action does not authorize any project nor does it constitute a project under CEQA. Therefore, no environmental review is required at this time. Conceptually approved Framework Plan components are proposed to be evaluated as part of the General Plan EIR and incorporated into the Community Plans Chapter of the General Plan 2030.

**ENCLOSURE:** None

**RECOMMENDATION:** Staff recommends that:

1. City Council provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and to begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and
2. City Council grant conceptual approval of proposed urban design guidelines.

Staff also recommends:

1. Agency Board provide direction to staff regarding shared parking on selected sites, and if appropriate, direct staff to return with more detailed information on the feasibility of creating shared parking and the begin discussions with relevant property owners regarding shared parking and the formation of a parking district; and
2. Agency Board grant conceptual approval of proposed Fremont Boulevard improvements.

**5.1 HALIMI RESIDENCE DEMOLITION PERMIT REQUEST – 43569 ELLSWORTH ST. Continuation of Public Hearing (Published Notice) to Consider an Appeal of a Historical Architectural Review Board (HARB) Determination that an Existing Single-Family Dwelling Located in the Mission San Jose Conservation District is a Potential Register Resource, and of the Accompanying HARB Denial of a Request for Permission to Demolish the Subject Structure (PLN2010-00249) (Continued from September 14, 2010)**

**Contact Person:**

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**Executive Summary:** On May 19, 2010, the applicant appealed the administrative determination that the 1890s home at 43569 Ellsworth Street is a Potential Register Resource, as defined by the Fremont Historical Resources Ordinance, and requested demolition of the structure. The Historical Architectural Review Board (HARB) reviewed the application on July 1, 2010 and concluded that the structure is a historic resource and still maintained enough historic integrity to convey its significance and subsequently denied the applicant's request to demolish the house. The applicant is now appealing this determination to the City Council. The Council must now determine whether the structure is indeed a historic resource and if it is not a historic resource, allow for the demolition of the structure. If the structure is a historic resource, no further action is required at this time as the structure may not be demolished without a preparation of an Environmental Impact Report consistent with the California Environmental Quality Act.

**BACKGROUND:** The subject site is located within the Mission San Jose Historical Overlay District and, more specifically, part of the Mission San Jose Conservation District (see Informational Item #7). A Historical and Architectural Assessment was conducted for the subject property (also known as the Trombas-Abreu Property) in June 2006 by Woodruff Minor (see Informational Item #6), which estimates that the subject house (hereafter referred to as the Trombas House) was originally built in the early 1890s. A second, non-historic home was constructed on the property in 1953 (also known as the Abreu House). In 1992, a large addition was constructed onto the back of the Trombas House, and the water tank house was converted to a bedroom with a loft. A detached garage was built behind the house in 1993 and eventually converted to a secondary dwelling unit. The front porch has also been rebuilt in the recent past using modern building materials, but there is no City record of when this work occurred.

The 2006 assessment concluded that the Trombas House appears eligible for listing on the California Register of Historic Resources. The home must meet one of four criteria for listing at the State level and is eligible for listing in the California Register of Historical Resources under Criterion "A" and Criterion "C". The applicable criteria are as follows:

- A. The resource is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; and

- C. The resource embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses significant artistic value.

The house is eligible under Criterion “A” in that it is one of the oldest remaining houses in the earliest platted subdivision of the City of Fremont, the “Town of Mission San Jose” tract in Mission San Jose. It was built by the original purchaser of the lot who bought the land from local investors, practices which were typical of the pattern of conveyance and development of real estate in the area during that time. It also possesses significance under Criterion “A” in that it is associated with early settlement of the area by Portuguese immigrant farmers who moved to the region in large numbers in the second half of the 19<sup>th</sup> century.

The house is eligible under Criterion “C” in that it is representative of a working class house of the period in question (late 19<sup>th</sup> century). Its water tank house adds period significance as well, as these types of structures typically provided domestic water service to most dwellings built during this time period.

The Fremont Historic Resource Ordinance recognizes structures that appear to have technical merit for listing on the California Register as Potential Register Resources. Potential Register Resources have the same preservation requirements as formally listed resources of the Fremont Register of Historic Resources. In light of the conclusions of the 2006 assessment, staff determined that the subject property is a Potential Register Resource. On July 1, 2010, HARB reviewed the applicant’s appeal of the determination and requested formal determination of whether the home is a historic resource. HARB ultimately voted 5-0 to deny the appeal. HARB concluded that despite its poor current condition, the structure retains enough historic character and integrity to be a historic resource and should be preserved rather than demolished.

#### **DISCUSSION/ANALYSIS:**

*Project Description:* The applicant believes that the Trombas House should not be considered a historic resource on the grounds that, in his opinion, it no longer possesses sufficient historic integrity to be eligible for listing as a historic resource. The applicant ultimately wishes to demolish the house and eventually redevelop the property consistent with the current One- and Two-Family Residence R-2 Historical Overlay District (HOD) zoning and applicable development standards and guidelines of the Mission San Jose Conservation District. No new development proposal has been submitted for the site at this time.

*Criteria and Historical Integrity:* The applicable criteria identified in the 2006 report (Criteria “A” and “C”) for whether the site may be eligible for the State Register are not directly disputed. Only one criterion of four must be met for a site to be eligible for listing on the State Register. However, there are two steps in evaluating historic resources. Once the historical facts and appropriate criteria are established, the final step for determining if a site is a historic resource is to evaluate its historic integrity as defined by the United States Secretary of the Interior for Treatment of Historic Properties. The following discussion describes integrity as defined by the Secretary of the Interior.

The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its historic significance. Historic

properties either retain integrity (i.e., they convey their significance), or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity. The retention of specific aspects of integrity is paramount for a property to convey its significance. Determining which of these aspects are most important to a particular property requires knowing why, where, and when the property is significant. The seven aspects of integrity are listed below:

- Location
- Design
- Setting
- Materials
- Workmanship
- Feeling
- Association

In order for a property to have historic integrity, it must maintain some, if not all, of these seven aspects. Each aspect may have a different application within the context of Criteria “A” and “C”. The overall evaluation of all relevant aspects of the integrity indicates whether a site retains its significance as a historic resource.

*Application to Subject Property:*

**Location:** The structure has not been moved from its original location. The house’s location on one of the original parcels in the oldest subdivision tract in the present-day City of Fremont, as discussed in the “Background” section above, clearly bestows it with integrity with regards to location.

**Design:** The structure has been modified and updated over the years with contemporary materials. However, the original structure and its associated tank house are still largely intact overall and most changes that have been made are not readily visible from the public street. The plan and architectural style of the original structure are typical of homes of working class immigrants who settled in the area in the late 19th century and are, therefore, considered to be representative of the vernacular tradition and design. While the structure may not possess any unique or ornate architectural features or details, it is a reflection of the socioeconomic status of its original owners and is typical of the homes that were originally built in the old town of Mission San Jose before it became part of the City of Fremont. Specifically, it features a simple T-shaped floor plan with a covered front porch and modest living quarters designed to provide for the basic necessities of a working class family.

Originally, many of the adjacent lots were developed with similar style homes, some of which still exist in their original locations but others of which have since been removed and replaced with more modern single- and multi-family residential development or small commercial centers built during the second half of the 20th century.

**Setting:** The house sits near the front property line oriented toward the original street grid of the tract, now Ellsworth Street. The water tank house was built at the back of the house adjacent to the original kitchen for convenience and practicality. The simple layout and clear orientation of the structure toward the public realm are characteristic of the design approach of its time period. There is no formal landscaping or other site treatments related to its property specific setting. However, the surrounding



setting has departed greatly from the site's period of significance. The street is of modern design. There is a small lot-contemporary home development on the opposite side of the street from the site. Other structures in the area are a mismatched pattern of old homes similar to the subject home and more modern multi-family structures built after the period of significance of the subject site. The area is residential but does not have a defined setting as residential of the time period; this is a primary reason why the Conservation District as a whole is not eligible as a historic district.

**Materials:** Due to a number of renovations and additions made to the house during the second half of the 20th century, a significant amount of its original materials have been replaced with more conventional building materials for both economical and practical reasons. For instance, on the exterior of the house, the original wood-framed windows were replaced with vinyl windows, the front porch was reconstructed using modern lumber materials such as plywood roofing and picket railing, the original side porch was enclosed and converted to additional living area, and a 30-foot long addition was built onto the back of the house with false wood siding in an attempt to match the original siding. The tank house has been converted with new plaster walls and ceiling into an additional bedroom and loft. However, the majority of these alterations are not readily visible to the public. When looking at the integrity of the structure with regard to its materials, it could be argued that too much of the original materials have been lost and that because of this the house lacks integrity in this regard. Furthermore, the applicant contends that the degradation of the structure that has occurred would require extensive renovation and existing materials would be replaced by modern construction finishes, and therefore the original materials element of the design would be further compromised.

**Workmanship:** While the house contains little in the form of ornate detailing or unique craftsmanship, it is nevertheless a qualified example of the local vernacular tradition of homes for working class families from its time period. There are no identified Portuguese design elements identified in the report. This tradition is characterized by a simple design which utilizes inexpensive construction materials and provides only modest amenities for its occupants. The home is not the only example of a vernacular home in this area as there are other homes along Ellsworth and Bryant Streets reflecting the home design of the historic time periods.

**Feeling:** Whether or not a property still retains feeling is a subjective matter. There are no specific attributes that contribute feeling related to the Portuguese immigrant relationship of the site. Feeling relates to its Criterion "A" location associated with development of Mission San Jose and also its Criterion "C" relationship to distinctive example from the time period. In staff's opinion, the numerous changes made to the structure and the property itself, including the addition of a paved driveway and detached garage, as well as the addition built onto the rear of the house using contemporary building materials detract from the historic feeling. Similarly, the front yard has been left unkempt for what has clearly been a long time, thus further impacting any feeling that the house still closely resembles what it was originally constructed as: a modest single-family home for a working class family. In addition, the fact that the majority of the adjacent properties have been razed and redeveloped over time with multi-family apartment buildings and newer single-family homes seems to impact the quality of feeling by changing the nature of the surrounding development.

**Association:** Whether a property maintains its association with the history of the period in which it was developed is also subject to individual interpretation. In this case, because there is no longer agricultural land in the area which could have been associated with the property and its neighboring parcels from the

original tract, and because many of the adjacent properties in the vicinity have long since been redeveloped with newer single-family, multi-family, and small-scale commercial development, there seems to be little left to associate the subject property directly with its historical period of significance. Furthermore, while some of the older homes in the area still suggest working-class socioeconomic status, a number have been demolished and replaced with larger, more contemporary residences. Association should also consider the Criterion “C” aspect as a representative example of its time period. While the setting and surroundings have been altered, the visible physical characteristics of the home do associate the structure with a clear historic association to the simple vernacular style overall, even with specific design and workmanship elements that have been altered over the years.

*Demolition Permit:* Per Fremont Municipal Code Section 8-21847, in order to approve a demolition permit for a property located within a Historic Overlay District (HOD), the decision-making body must find that a proposed alteration to the property (including the removal of a structure) is compatible with the historical character and resources of the HOD, as well as the applicable standards and guidelines governing the HOD, or in this case, General Plan Land Use Policy LU 7.4, Implementation Measure #3, and the Mission San Jose Design Guidelines. As such, if the Council concludes that the subject property is not a historic resource, it must find that allowing the demolition would not be inconsistent with the goal of the General Plan to preserve the historic character of the Mission San Jose area.

*Appeal:* In the applicant’s opinion, the house no longer possesses any of the above seven criteria to a degree warranting Historic Resource status. He focuses primarily on the changes that have occurred to the neighborhood through the redevelopment of the area during the second half of the 20th century with multi-family apartment buildings, small commercial centers, and newer single-family homes, as well as the numerous alterations that have been made to the house over time (see Informational Items #1 & #9). He believes that the neighborhood and the house itself have undergone too much change for the subject property to be able to maintain any integrity through feeling, location, setting and association, and that the structure does not possess any special features, qualities or craftsmanship worthy of determination as a historic resource.

The applicant also contends the cost of restoration and rehabilitation of the property without demolition is substantial for a home of such modest size and value. He has submitted a Structural Assessment Report prepared by Vitezslav Hanacek, PE, and two separate termite inspection reports, all of which cite extensive structural damage caused by termites and dry rot (see Informational Items #2, #4, #5). The consulting engineer suggests that the only feasible way to restore the house would be to remove the roof structure, disassemble the entire framing, repair and/or replace the damaged basement and foundation structural members, and then reassemble the framing with new members as needed before reattaching the roof structure. According to the engineer’s report, the total cost of performing this work using the 2010 Remodeling/Repair Construction Costs manual published by Saylor Publications, Inc., is estimated at \$530,000. The applicant believes the cost to repair is not economical when considered in light of the structure’s historical contribution to its surroundings and the financial return he would earn from the investment. He also believes that the extensiveness of the repairs would further diminish the Materials aspect of integrity. In the applicant’s opinion that the structure is not historic, its demolition would not be detrimental to the surrounding Conservation District and new development in the future could be designed to be compatible with the surroundings.

*City Council Action:* The City Council must consider the appeal and make a determination of the property's historic significance based on substantial evidence supporting whether it meets any or all criteria for eligibility of listing on the State Register and has enough overall integrity to convey its significance. Staff recommends that the Council uphold HARB's decision and determine that the subject site is in fact a historic resource based on the Criterion "A" and Criterion "C", and that the site retains most of the aspects of integrity, specifically location, setting, association, design, and workmanship as described above. The determination of whether the subject site is a historic resource does not automatically place the property on either the Fremont Register or State Register of Historical Resources. However, determining the site is a historic resource provides California Environmental Quality Act (CEQA) protection from activities that would impair its significance (e.g., demolition or substantial alteration). In this case, an Environmental Impact Report would be required to: a) evaluate the potential impacts resulting from any such activities; b) consider feasible alternatives; and c) provide potential feasible mitigation measures prior to allowing for the demolition or substantial alteration of the structure. As such, if the Council finds that the subject site is a historic resource, the demolition permit could not be approved without proper CEQA documentation. Under this scenario, the Council should deny the demolition permit request without further evaluation of the effects of demolition or alteration of the structure and its historic significance as required by CEQA.

If the Council determines that the site is not a historic resource, it must then consider the request to allow the demolition. Per FMC Section 8-21847, the Council must find that a proposed alteration to a property located within a Historic Overlay District (HOD) (including the removal of a structure) is compatible with the historical character and resources of the HOD, as well as the applicable standards and guidelines governing the HOD (in this case, General Plan Land Use Policy LU 7.4, Implementation Measure #3, and the Mission San Jose Design Guidelines). Under this scenario, the Council may approve the request for a demolition permit on the grounds that allowing the removal of the structure would not conflict with the goal of Land Use Policy LU 7.4, Implementation Measure #3 to preserve the character of the Mission San Jose area in that the house and its immediate surroundings have undergone too much change over the years and no longer retain significant historical character or integrity, and that removal of the house would not detract from the surroundings. Such a decision could be supported by the fact that very few of the original structures on the subject block of Ellsworth Street remain, as the vast majority have been removed and replaced with newer single-family homes and apartment buildings, and the subject site does not directly contribute to the setting of other potential historic resources in the conservation district.

Any future new development proposed on the subject site would be subject to HARB review as a new structure within the Mission San Jose Conservation District. It should be noted that no new development is being proposed as part of this application.

*Historical Architectural Review Board Action:* On July 1, 2010, HARB considered the item in a public hearing and voted 5-0 to deny the application on the grounds that the structure still possessed sufficient integrity to be considered a historic resource (Informational Item #8). They considered the facts that the house had had been added onto over the years and had many of its original building materials replaced with more conventional replacement materials and determined that it was not sufficient grounds for deeming the structure as no longer being historic. The structure retains its locational value and could be restored to a better condition while maintaining its historic character.

**FISCAL IMPACT:** Not applicable.

**ENVIRONMENTAL REVIEW:** The request for consideration of whether or not the property is a historic resource is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not considered a project as defined by CEQA Guideline 15378. The request for approval of the demolition permit for a non-historic structure is exempt per Guideline 15301, Demolition/Removal of Existing Small Structures. In the event the house is found to be a historic resource, the California Environmental Quality Act (CEQA) defines the demolition of a historic resource as a potentially significant impact on the environment and necessitates preparation of an EIR.

**PUBLIC NOTICE AND COMMENT:** Public hearing notification is required for the appeal. A total of 115 hearing notices were mailed to owners and occupants of all properties located within 300 feet of the site. The notices were mailed out by the City Clerk's Office on September 3, 2010. A Public Hearing Notice was also published in *The Tri-City Voice* on August 31, 2010. The continued meeting date was re-noticed in the *The Tri-City Voice* on September 21, 2010, and notices mailed on September 24, 2010.

**ENCLOSURES:**

- [Exhibit "A" Recommended Findings and Conditions of Approval](#)
- [Informational Item 1 - Argument against Potential Resource Determination from Applicant](#)
- [Informational Item 2 - Structural Assessment Report prepared by Vitezslav Hanacek, PE](#)
- [Informational Item 3 - Structural Inspection conducted by ACS Consulting Engineers](#)
- [Informational Item 4 - Wood-Destroying Pest & Organism Inspection Report prepared by HomeGuard, Inc.](#)
- [Informational Item 5 - Wood-Destroying Pest & Organism Inspection Report prepared by Prime Exterminators of Northern California, Inc.](#)
- [Informational Item 6 - Historical and Architectural Assessment for Trombas-Abreu Property prepared by Woodruff Minor](#)
- [Informational Item 7 - Mission San Jose Design Guidelines HOD Boundary Map](#)
- [Informational Item 8 - Draft Minutes from July 1, 2010 Historical Architectural Review Board hearing](#)
- [Informational Item 9 - Appeal filed by Applicant dated August 5, 2010](#)
- [Informational Item 10 - Project Summary Data](#)

**RECOMMENDATION:**

Either

(A) Staff Recommendation:

1. Hold public hearing;
2. Find that the request for consideration as to the historic status of the property is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061(b)(3) in that it is not considered a project as defined by Guideline 15378; and
3. Uphold the HARB determination that the subject house is a Potential Register Resource based on the evidence of the historical assessment and deny the appeal, and direct staff to prepare an Environmental Impact Report in accordance with the requirements of CEQA if the applicant chooses to proceed with the request for a demolition permit.

Or:

(B) Alternative Recommendation:

1. Hold public hearing;
2. Find that the request for approval of the demolition permit is exempt per Guideline 15301, Demolition of Existing Small Structures; and
3. Grant the appeal by determining that the subject house is not a historic resource based on the evidence of the historical assessment and the finding that the property does not possess historical integrity, and approve the request for a demolition permit based on the findings contained in Exhibit "A".

## **6.1 Report Out from Closed Session of Any Final Action**

## **8.1 Council Referrals**

### **8.1.1 VICE MAYOR WIECKOWSKI REFERRAL: Request that City Council Direct Staff to Analyze Feasibility of Regulating Single Use Bags**

In the recently concluded legislative session, state lawmakers were considering AB 1998 (Brownley) which would have prohibited a store from providing any single use carry out plastic bags to customers. This bill would have provided a consistent state-wide approach to dealing with single use bags, but unfortunately, the bill was defeated in the Senate. In light of this development, this referral requests that the Council direct the City Manager to analyze ongoing efforts by the City of San Jose, Stopwaste.org and other jurisdictions to implement plastic bag bans.

As part of this effort, staff is asked to identify the environmental assessment work that would be needed along with an estimated budget and timeline. Staff may also want to address public outreach, education and enforcement strategies and issues associated with potential challenges.

Staff would be directed to bring this information back to Council on November 9, 2010 along with staff's analysis of the benefits and implementation issues associated with regulating single use bags on both retail and wholesale providers.

## **8.2 Oral Reports on Meetings and Events**





## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC .....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF .....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
October 12, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 19, 2010	TBD	Work Session	Council Chambers	Live
October 26, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 16, 2010	TBD	Work Session	Council Chambers	Live
November 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 30, 2010 (5 <sup>th</sup> Tuesday)		No City Council Meeting		
December 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 15, 2010 – January 3, 2011		Council Recess		
January 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 18, 2011	TBD	Work Session	Council Chambers	Live
January 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 15, 2011	TBD	Work Session	Council Chambers	Live
February 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live